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Commissioners:
JULIA L. JOHNSON, CHAIRMAN
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING



GENERAL COUNSEL
ROBERT D. VANDIVER
(904) 413-6248

Public Service Commission

January 27, 1997

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

BY AIRBORNE EXPRESS

Re: CC Docket No. 96-45 - Federal-State Joint Board on Universal Service
(Ex Parte Filing)

Dear Mr. Caton:

Pursuant to Rule 1.1206, two copies of our written ex parte presentation, filed this same day, are submitted to you under separate cover for inclusion in the public record.

Sincerely,

Cynthia Miller
Cynthia Miller
Senior Attorney

CBM:jmb
Enclosure

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
Federal-State Joint Board on)
Universal Service)
_____)

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EX PARTE COMMENTS OF THE

FLORIDA PUBLIC SERVICE COMMISSION

On November 7, 1996, the Federal-State Joint Board adopted a Recommended Decision on Universal Service, as required by Section 254 of the Telecommunications Act of 1996 (the Act). On November 18, 1996, the Federal Communications Commission (FCC) issued a request for Comment on that Recommendation. While many recommendations were made on universal service issues, certain areas remain open. The FCC has requested comment on certain of the unresolved matters.

The Florida Public Service Commission (FPSC) is pleased to provide comments on these issues of major importance. Our ex parte comments are limited to the topic of high cost and low-income support mechanisms.

The FCC asks whether assessments for high cost and low-income support mechanisms should be based on the intrastate and interstate revenues of carriers that provide interstate telecommunications services. Additionally, the FCC seeks comment as to whether contributing carriers' abilities to identify separately inter- and intrastate revenues in an evolving telecommunications market, and carriers' incentives to shift

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revenues between jurisdictions to avoid contributions, have a bearing on this question.

Inter- and Intrastate Revenue Assessments

Some commenters believe that the application of an assessment to both inter- and intrastate revenues shifts jurisdictional responsibilities. There was opposition to such a shift. The FPSC disagrees that the use of intrastate revenues as part of the assessable revenue base constitutes a shift in jurisdiction. Such assessments could be analogized to a tax. From a practical standpoint, the mere application of such a charge to certain revenues does not shift jurisdictional responsibilities for other matters, such as establishment of rates. We note, for example, that the federal excise tax on communications is charged on both local and toll telephone services. In Florida, those same revenues are also subject to the gross receipts tax. The jurisdictional responsibility for rates and other intrastate matters is not impaired by the application of multiple taxes to the same revenues, nor does the assessment of a tax lend any other authority over a specific type of revenue. We believe the same would hold true for a universal service assessment.

In theory, we could support an assessment on both inter- and intrastate revenues. Such a method combines fairness with

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simplicity, while not impairing the states' jurisdiction. We believe an assessment on certain revenue does not preclude making an additional assessment on the same revenue. Nevertheless, the impact on telecommunications providers in certain states due to this type of assessment may effectively preclude funding of state programs due to the sheer magnitude of the total proposed assessments. We note that the federal Telecommunications Act of 1996 expressly acknowledged the states' rights to establish their own universal service mechanisms. (Section 254(f)) We believe nothing should be done that would impair the states' ability to implement funds of their own, including state assessments on both inter- and intrastate revenues, if the states find it appropriate. Although we do not object to an assessment on both inter- and intrastate revenues, we have other concerns about the proposed methodology. We find disturbing the magnitude of the amounts that Florida telecommunications providers may be assessed overall, as outlined in the report titled "The Revenue Base for Federal Universal Service Support" (hereafter the Report).¹

Overall Assessments

According to the figures supplied in the Report, all Florida carriers combined could contribute as much as \$221,010,000 to the

¹Prepared by the Staff Subcommittee on Communications of the National Association of Regulatory Utility Commissioners, with assistance from the Telecommunications Industries Analysis Project.

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fund, net of receipts. The smallest net contribution by Florida under the Report's various proposals would be \$47,960,000.

As a result of the proposed increases in the fund, many states may receive substantial increases in funding, often at the expense of populous states such as Florida. Florida has a high level of assessable revenue but enjoys somewhat lower costs per loop than some other states, largely due to differences in demographics. We would expect to be a net contributor under any new proposal. Nevertheless, we caution that contribution levels must be reasonable. The federal jurisdiction cannot resolve all of the issues of universal service on its own. It is clear to us that the Act intended a partnership with the states, in which both jurisdictions have an important role to play. In that spirit, we would propose two courses of action, which could be implemented jointly.

First, while it may be inevitable that large states will be net universal service contributors under a revenue-based allocation approach, we believe it would be reasonable to cap such contributions; for example, the net contribution from Florida carriers could be set at \$50 million.

Second, the states must be allowed to determine what are appropriate levels of intrastate universal service funding. The federal fund cannot be expected to provide all universal service support. Accordingly, an assessment method should be selected

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that provides only partial funding, leaving the remainder to the states to provide as they see fit. We have selected two of the proposed options that we believe could meet this goal. Each of these options provides only a portion of the loop costs for high cost areas, leaving the remainder to be funded by the states.

In regard to the fully funded methods outlined in the Report, we believe, due to the potential magnitude of the fund, that a high benchmark, such as \$50, should be supported at the federal level. While we provisionally endorsed a \$20 benchmark as a starting point for funding in previous comments, we believe a higher benchmark would ensure that only truly high-cost states are recipients of federal funds.

The other method we would support is the use of 40 percent funding, which funds only a portion of loop costs. This percentage was proposed because the interstate revenue stream nationally is approximately 40 percent of total telecommunications revenues. Under this option, funding is based on the costs above a relatively low benchmark. The assessment as proposed would be based on interstate revenues only, with 40 percent of the costs being funded. As with the full funding method at a higher benchmark, this method would permit flexibility for the states to determine what additional funding is necessary to support universal service for their state.

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LEC Receipts/Payments

The other major area of concern is the potential impact on the LECs. In some instances, LECs could suffer a reduction in funding, while in others they may receive a windfall. Under one of the options contained in the Report, Florida LECs could receive net payments of \$384,836,000, compared to present receipts of \$28,825,000. Under another option, Florida LECs would pay out a net amount of \$57,647,000.

It is not clear to us what the substantial changes in funding are intended to provide. Although it appears from the Recommended Decision that the new mechanism will replace the current high-cost fund, DEM weighting, and Long Term Support (LTS), there is no apparent requirement that it replace the present funding on a dollar for dollar basis. Further, there does not appear to be an explicit requirement that LECs which receive "new" universal service monies (funding in excess of the amounts received from the current US fund and other US mechanisms) must reduce or eliminate rates for certain services. With either increased or decreased funding, it could befall the states to engage in major restructuring of intrastate rates, due to the states' general jurisdiction over intrastate rates. This potentially could lead to significant impacts on the ratepayers of those states, particularly where reduced funding may cause

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revenue shortfalls for the LECs. We question how such an outcome would enhance universal service.

We believe it would be appropriate for the FCC first to determine the implicit federal subsidies, such as DEM weighting and LTS, that should be replaced through an explicit fund, and quantify the amounts associated with those subsidies. Then, a mechanism and a benchmark level should be selected which are "specific, predictable and sufficient"² to meet that goal. Intrastate subsidies should be left to the states to deal with as they find appropriate.

Separation of Interstate Revenues for Assessment Purposes

The FPSC does not believe it would be unduly burdensome for companies to separate their interstate revenues for assessment purposes, if the FCC determines that only interstate revenues should be used as an assessable base. Clearly, methods are already in use for such purposes. As discussed by NYNEX, interstate carriers separate their revenues for telecommunications relay service (TRS) assessment purposes. In addition, we note that a similar methodology is used for the reporting of percent interstate use (PIU) for originating and terminating Feature Group A lines and Feature Group B trunk groups. Nevertheless, we favor elimination of complex

²Telecommunications Act of 1996, Sec. 254(b)(5)

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separations schemes wherever possible. A less complex methodology fits with the notion of less regulation, which we believe is important if competition is to be allowed to take its natural course.

Conclusion

We would note that the FPSC's comments regarding the use of both inter- and intrastate revenues to establish an assessable base for universal service funding, where such comments can be construed as supportive of that method, should not be interpreted as being counter to our continuing challenge to the FCC's interconnection pricing rules, which we believe intrude on state jurisdiction. The federal statutory provisions on universal service and on interconnection are notably different in purpose and application. In addition, we believe the establishment of an assessable base does not equate with a mandatory pricing formula for intrastate rates.

In conclusion, while the FPSC finds merit in assessing both inter- and intrastate revenues for the high cost and low-income portions of the federal universal service mechanism, we have concerns regarding the impact the options that have been proposed would have on the individual states. We recommend that the FCC proceed with caution in designing its new universal service fund, to make certain the assessments for that fund are "specific,

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predictable and sufficient" to meet the goals of universal
service, as mandated in the Telecommunications Act of 1996.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cynthia Miller", followed by a small flourish.

Cynthia Miller
Senior Attorney
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

DATED: January 27th, 1997

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CC DOCKET NO. 96-45

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)

Federal-State Joint Board on)
Universal Service)
_____)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Public Service Commission Comments have been furnished to the parties on the attached list this 27th day of January, 1997.

by jh

Cynthia Miller
Senior Attorney
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W. - Room 814
Washington, D.C. 20554

The Honorable Susan Ness, Chairman
Federal Communications Commission
1919 M Street, N.W. - Room 832
Washington, D.C. 20554

The Honorable Julia L. Johnson
Commissioner
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

The Honorable Kenneth McClure, Vice
Chairman
Missouri Public Service Commission
301 W. High Street, Suite 530
Jefferson City, MO 65102

The Honorable Laska Schoenfelder,
Commissioner
South Dakota Public Utilities
Commission
500 E. Capital Avenue
Pierre, SD 57501

Whiting Thayer
Federal Communications Commission
200 L Street, N. W., Suite 812
Washington, D.C. 20036

The Honorable Andrew C. Barrett,
Federal Communications Commission
1919 M Street, N.W. - Room 826
Washington, D.C. 20554

The Honorable Sharon L. Nelson,
Chairman
Washington Utilities and
Transportation Commission
P. O. Box 47250
Olympia, WA 98504-7250

Martha S. Hogerty
Public Counsel for the State of
Missouri
P. O. Box 7800
Harry S. Truman Building, Room 250
Jefferson City, MO 65102

The Honorable Rachelle B. Chong,
Commissioner
Federal Communications Commission
1919 M Street, N. W., Room 844
Washington, D.C. 20054

Alex Belinfante
Federal Communications Commission
1919 M Street, N. W.
Washington, D.C. 20054

Paul E. Pederson, State Staff Chair
Missouri Public Service Commission
P. O. Box 360
Truman State Office Building
Jefferson City, MO 65102

Eileen Benner
Idaho Public Utilities Commission
P. O. Box 83720
Boise, ID 83720-0074

William Howden
Federal Communications Commission
2000 L Street, N. W., Suite 812
Washington, D.C. 20036

Debra M. Kriete
Pennsylvania Public Utilities
Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Larry Povich
Federal Communications Commission
1919 M Street, N. W.
Washington, D.C. 20054

Deborah Dupont, Federal Staff Chair
Federal Communications Commission
2000 L Street, N. W.
Washington, D.C. 20036

Charles Bolle
South Dakota Public Utilities
Commission
State Capital, 500 E. Capital Avenue
Pierre, SD 57501-5070

Lorraine Kenyon
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501

Clara Kuehn
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

The Honorable Sandra Makeeff
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Michael A. McRae
D.C. Office of the People's Counsel
1133 15th Street, N.W., Suite 500
Washington, D.C. 20005

Terry Monroe
New York Public Service Commission
Three Empire Plaza
Albany, NY 12223

Mark Nadel
Federal Communications Commission
1919 M Street, N. W.
Washington, D.C. 20054

The Honorable Samuel Loudenslager
Arkansas Public Service Commission
P. O. Box 400
Little Rock, AR 72203-0400

Philip F. McClelland
Pennsylvania Office of Consumer
Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Rafi Mohammed
Federal Communications Commission
2000 L Street, N. W., Suite 812
Washington, D.C. 20036

Andrew Mulitz
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

Gary Oddi
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

Teresa Pitts
Washington Utilities & Transportation
Commission
P. O. Box 47250
Olympia, WA 98504-7250

James Bradford Ramsay
National Association of Regulatory
Utility Commissioners
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Brian Roberts
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Pamela Szymczak
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

Richard J. Johnson, Brian T. Grogan
Minnesota Independent Coalition
Moss & Barnett
4800 Northwest Center
90 South Seventh Street
Minneapolis, MN 55402-4129

Jeanine Poltronieri
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

Jonathan Reel
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

Gary Seigel
Federal Communications Commission
2000 L Street, N. W., Suite 257
Washington, D.C. 20036

James Blaszk, Kevin S. DiLallo
AD HOC Telecommunications Users
Levine, Blaszk, Block & Boothby
1300 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20036

Angela J. Campbell, Ilene R. Penn,
John Podesta
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, N.W.
Washington, D.C. 20001

Robert S. Tongren, Andrea M. Kelsey,
David C. Bergmann, Richard W. Pace
Office of the Ohio Consumer's Counsel
77 South High Street, 15th Floor
Columbus, Ohio 43266-0550

David A. Irwin
ITCs, Inc.
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

William H. Smith, Jr., Chief
Bureau Rate & Safety Evaluation
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Dr. Barbara O'Connor, Mary Gardiner
Jones, Henry Geller, Samuel A. Simon
Alliance for Public Technology
901 15th Street, Suite 230
Washington, D.C. 20005

Ray Taylor
President-Association of Community
College Trustees
One Dupont Circle, N.W.
Suite 410
Washington, D.C. 20036

Kenneth Lein, Manager
Winnebago Cooperative Telephone
Association
704 East Main
Lake Mills, Iowa 50450

Charles H. Helein
America's Carriers Telecommunication
Association
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 70
McClean, Virginia 22101

Charles H. Carrathrs III
Richard D. Gary
Virginia Rural Telephone Companies
Hunton & Williams
951 East Byrd Street
Richmond, VA 23219

Honorable Albert Vann
National Black Caucus of State
Legislators Telecommunications
Energy Committee
New York State Assembly
Legislative Office Building #422
Albany, New York 12248

National Association of Development
Organizations
444 North Capitol Street, N.W.
Suite 630
Washington, D.C. 20001

Paul Rodgers, Charles D. Gray
National Association of Regulator
Utility Commissioners
1201 Constitution Avenue, Suite 1102
P. O. Box 684
Washington, D.C. 20044

Illona A. Jeffcoat-Sacco, Director
Public Utilities Division
State of North Dakota
600 E. Boulevard
Bismarck, North Dakota 58505-0480

Michael J. Nowick
Executive Secretary/Treasurer
Minnesota Telephone Association
1650 World Trade Center
30 East 7th Street
St. Paul, MN 55101-4901

Alison M. Hughes, MPA
Associate Director
University of Arizona Health Sciences
Center
2501 East Elm Street
Tucson, Arizona 85716

Marc A. Stone
Manager-Regulatory/Legislative Affairs
Fred Williamson & Associates, Inc.
2921 East 91st Street, Suite 200
Tulsa, Oklahoma 74137

Virginia J. Taylor, Richard A.
Elbrecht
California Department of Consumer
Affairs
400 R Street, Suite 3090
Sacramento, CA 95814-6200

Michael Casserly, Executive Director
Council of the Great City Schools
1301 Pennsylvania Avenue, N.W.
Suite 702
Washington, D.C. 20004

Margot Smiley Humphrey
Century Telephone Enterprises, Inc.
and TDS Telecommunications Corporation
Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036

Ronald L. Plessner, James H. Halpert,
Mark J. O'Connor
Commercial Internet Exchange
Association
Piper & Marbury L.L.P.
1200 19th Street, N.W., Seventh Floor
Washington, D.C. 20036

Michael S. Fox
Director-Regulatory Affairs
John Staurulakis, Inc.
Telecommunications Consultants
6315 Seabrook Road
Seabrook, Maryland 20706

Margot Smiley Humphrey
NRTA
Koteen & Naftalin, LLP
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036

Joseph P. Markoski, James M. Finkl
Information Technology Association of
America and Electronic Messaging
Association
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P. O. Box 407
Washington, D. C. 20044

Mark J. Golden
Vice President - Industry Affairs
Robert R. Cohen
Personal Communications Industry
Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314-1561

Jeffery L. Sheldon, Sean A. Stokes
UTC
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036

Jeffery H. Smith
Keystone-Arthur Telephone Company
P. O. Box 240
Keyston, Nebraska 69144

Philip L. Verveer, Sue D. Blumenfeld,
Thomas Jones
Tele-Communications, Inc.
Willkie Farr & Gallagher
Three LaFayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Robert M. Halperin
The State of Alaska
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dale White
Commercial Services Manager
Churchill County Telephone & Telegraph
P. O. Box 1390
50 West Williams Avenue
Fallon, Nevada 89406

Deborah S. Waldbaum
Colorado Office of Consumer Counsel
1580 Logan Street, Suite 610
Denver, Colorado 80203

Rachel B. Ferber
Vice President-Assistant General
Counsel
360 Communications Company
8725 Higgins Road
Chicago, IL 60631

J. Kent Jerome
Secretary-Treasurer
Iowa Telephone Association
1601 - 22 Street, Suite 290
West Des Moines, Iowa 50266

L. Jerry Mitchell
Mon-Cre Telephone Cooperative
Jackson Thornton & Company, CPAs
P. O. Box 96
Montgomery, AL 36101-0096

R. Glenn Rhyne, Manager
Research Department
State of South Carolina
Public Service Commission
P. O. Drawer 11649
Columbia, S.C. 29203

Kathryn Marie Krause
U.S. West, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Jim Ftasimorons
North Dakota Department of Health
600 E. Boulevard Avenue
Bismarck, N.D. 58505-0200

Randolph J. May, Timothy J. Cooney
Compuserve Incorporated
Sutherland, Asbill & Brenna
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404

L. Jerry Mitchell
Bledsoe Telephone Cooperative
Jackson Thornton & Company, CPAs
P. O. Box 96
Montgomery, AL 36101-0096

Benjamin Peres, Gerald M. Zuckerman,
Mark J. Becker
Hispanic Information and
Telecommunications Network, Inc.
Abacus Communications Company
1801 Columbia Road, N.W., Suite 101
Washington, D.C. 20009

Chris Frentrop
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20036

Robert D. Carlitz,
Eugene F. Hastings, II, Mario Zinga,
Information Renaissance
c/o Anthony P. Picadio
600 Grant Street, Suite 4680
Pittsburgh, PA 15219

James R. Hobson
National Emergency Number Association
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, D.C. 20005-3934

Mary Ellen Emmons, President
The Alaska Library Association
P. O. Box 81084
Fairbanks, Alaska 99708

David J. Strom
American Federation of Teachers
555 New Jersey Avenue, N.W.
Washington, D.C. 20001

Lee Green, RN
Clinical Coordinator
High Plains Rural Health Network
218 East Kiowa Avenue
P. O. Box 575
Ft. Morgan, Colorado 80701

Jeffrey P. Solsom, LCSW, J.D.
Director
Southwest Montana Telepsychiatry
Network
50 S. Last Chance Gulch
Helena, Montana 59601

Alfred M. Mamlet, Marc A. Paul
Kinko's Inc.
Steptoe & Johnson Ltd
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

Cheryl A. Tritt, James A. Casey
Cheyenne River Sioux Telephone
Authority
2000 Pennsylvania Ave., N.W.
Suite 5500
Washington, D.C. 20006

Henry m. Rivera, Larry S. Solomon
J. Thomas Nolan
Metricom, Inc.
Ginsburg, Feldman and Bress, Chartered
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

William H. Smith, Jr., Chief
Bureau Rate & Safety Evaluation
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Richard M. Tettelbaum
Associate General Counsel
Citizens Utilities Company
1400 16th Street, N.W., Suite 500
Washington, D. C. 20036

Judith St. Ledger-Roty
Stefan M. Lopatkiewicz
Reed Smith Shaw & McClay
1301 K Street, N.W., East Tower
Washington, D.C. 20005

Mark C. Rosenblum, Peter H. Jacoby,
Judy Sello
AT&T Corporation
Room 3244J1
295 North Maple Avenue
Basking Ridge, N.J. 07920

Robert G. Pennington, Program Director
Mountaineer Doctor Tele Vision-MDTV
Robert C. Byrd
Health Sciences Center
West Virginia University
Morgantown, WV 26506

Carl TIC. Gutierrez
Governor of Guam
Office of the Governor
P. O. Box 2950
Agana, Guam 96910

Richard A. Muscat, Dan Morales,
Jorge Vega, Thomas P. Perkins, Jr.,
Rupaco T. Gonzalex
Public Agency Representation Section
P. O. Box 12548, Capitol Station
Austin, TX 78711-2548

Delbert D. Smith, Stefan M.
Lopatkiewicz, Brigitte L. Adams
U.S. Distance Learning Association
Reed Smith Shaw & McClay
1301 K Street, N.W., East Tower
Washington, D.C. 20005

J. Manning Lee
Vice President, Regulatory Affairs
Teleport Communications Group, Inc.
Two Teleport Drive, Suite 300
Staten Island, New York 10311

Philip L. Verveer, Brian A. Finley
Guam Public Utilities Commission
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Gene P. Belardi, Vice President
MobileMedia Communications, Inc.
2101 Wilson Blvd., Suite 935
Arlington, VA 22201

Mary E. Newmeyer
Federal Affairs Advisor
Alabama Public Service Commission
P. O. Box 991
Montgomery, AL 36101

John H. Gengler
Principal
Richardton-Taylor High School
Richardton, ND 58652

Michael T. Skrivan
Harris, Skrivan & Associates, LLC
8801 S. Yale, Suite 220
Tulsa, OK 74137

Cheryl L. Parino, Chairman
Public Service Commission of Wisconsin
610 North Whitney Way
P. O. Box 7854
Madison, WI 53707-7854

Lawrence W. Katz
Bell Atlantic Telephone Companies
1320 North Court House Road
Eight Floor
Arlington, VA 22201

Howard J. Symons, Jennifer A. Purvis
Continental Cablevision, Inc.
Mintz, Levin, Cohn, Ferris, Glovsky
and Pope, P.C.
701 Pennsylvania Avenue, N.W.,
Suite 900
Washington, D.C. 20004

Jeffery P. Johnson
Deputy State Librarian
Library of Michigan
717 W. Allegan Street
Lansing, MI 48909

Robert A. Hart IV
Hart Engineers
4615 North Blvd.
Baton Rouge, Louisiana 70806

Jeffery Blumenfeld, Glenn B. Manishin,
Christy C. Kunin, Christine A.
Mailloux
Netscape Communications Corporation
1615 M Street, N.W., Suite 700
Washington, D.C. 20036

Kofi Asiedu Ofori, Counsel
Office of Communication of the United
Church of Christ
2000 M Street, N.W., Suite 400
Washington, D.C. 20036

Tom Udall, Richard Weiner
New Mexico Attorney General
P. O. Drawer 1508
Santa Fe, New Mexico 87504

Rich Gross
Instructional Telecommunications
Council
RDR Associates, Inc.
One Dupont Circle, N.W., Suite 410
Washington, D.C. 20036

L. Jerry Mitchell
New Hope Telephone Cooperative
Ragland Telephone Company
Hopper Telecommunications Company
Jackson Thornton & Company, CPAs
P. O. Box 96
Montgomery, AL 36101-0096

Donald L. Howell, II
Deputy Attorney General
Idaho Public Utilities Commission
P. O. Box 83720
Boise, ID 83720-0074

Jere W. Glover, Chief Counsel
David W. Zesiger, Asst. Chief Counsel
Office of Advocacy
United States Small Business
Administration
409 Third Street, S.W., Suite 7800
Washington, D.C. 20416

Thomas K. Crowe, Michael B. Adams, Jr.
Commonwealth of the Northern Mariana
Islands
Law Office of Thomas K. Crowe, P.C.
2300 M Street, N.W., Suite 800
Washington, D.C. 30027

Jeffery C. Ogden
Merit Associate Director for MichNet
4251 Plymouth Road
Ann Arbor, Michigan 48105-2785

Joseph S. Paykel, Andrew Jay
Schwartzman, Gigi B. Sohn,
Jill A. Lesser
People for the American Way
2000 M Street, N.W.
Washington, D.C. 20036

David W. McGann
Special Assistant Attorney General
Illinois Commerce Commission
160 North LaSalle Street
Chicago, IL 60601

John C. Beachboard, Charles R
McClure, Kristin R. Eschenfelder
School of Information Studies
Syracuse University
4-116 Center for Science & Technology
Syracuse, New York 13244-4100

Jeffery F. Beck
Jillisa Bronfman
Beck & Ackerman
Four Embarcadero Center, Suite 760
San Francisco, CA 94111

John E. Cawthorne
Vice President for Education
National Urban League
106 Champion Hall
Boston College
Chestnut Hill, MA 02146

Kathleen Q. Abernathy
David A. Gross
Airtouch Communications, Inc.
1818 N Street, N.W.
Washington, D.C. 20036

Mark D. Wilkerson
Alabama-Mississippi Telephone
Association
Brantley & Wilkerson, P.C.
P. O. Box 830
Montgomery, AL 36101-0830

David R. Poe, Yvonne M. Coviello
Time Warner Communications Holdings,
Inc.
LeBoeuf, Lamb, Green & MacRae L.L.P.
1875 Connecticut Avenue, N.W.
Suite 1200
Washington, D.C. 20009

Jay C. Keithley, Leon M. Kestenbaum
H. Richard Juhnke
Sprint Corporation
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036

Harold M. Thompson
Chief Operating Officer
Iowa Communications Network
P. O. Box 587
Johnston, Iowa 50131-0587

Catherine R. Sloan, Richard L.
Fruchterman, Richard S. Whitt
Worldcom, Inc.
d/b/a LDDS WorldCom
1120 Connecticut Ave., N.W., Suite 400
Washington, D.C. 20036

David F. Johnson, Scott Sawyer
State of Rhode Island and Providence
Plantations
Public Utilities Commission
100 Orange Street
Providence, R.I. 02903

Michael C. Strant
Executive Vice-President and General
Counsel
Montana Independent Telecommunications
Systems, Inc.
519 N. Sanders
Helena, Montana 59604-5237

Martin Avery
Executive Director
Navajo Nation Washington Office
1101 17th Street, N.W., Suite 250
Washington, D.C. 20036

Mary Dent
Goldberg, Godles, Wiener & Wright
1229 Nineteenth Street, N.W.
Washington, D.C. 20036

Timothy R. Graham, Roger M. Brger,
Joseph M. Sandri, Jr.
Winstar Communications, Inc.
1146 19th Street, N.W.
Washington, D.C. 20036

Michael F. Altschul
Vice President, General Counsel
Randall S. Coleman
Vice President-Regulatory Policy & Law
Cellular Telecommunications Industry
Association
1250 Connecticut Ave., N.W., Suite 200
Washington, D.S. 20036

Gary M. Epstein, Teresa D. Baer,
Michael S. Wroblewski
Pacific Telecom, Inc.
Latham & Watkins
1001 Pennsylvania Avenue, N.W.
Suite 1300
Washington, D.C. 20004

Lynn C. Silver
Education Policy Manager
Apple Computer, Inc.
1667 K Street, N.W., Suite 410
Washington, D.C. 20006

Richard Civile, Dr. Ann Bishop
Dr. Leigh Estabrook
Graduate School of Library and
Information Science
University of Illinois at
Urban/Champaign
501 East Daniel Street
Champaign, IL 61820

James Rowe
Executive Director
Alaska Telephone Association
4341 B Street, Suite 304
Anchorage, AK 99503

Fiona Branton
Directory of Government Relations and
Regulatory Counsel
Information Technology Industry
Council
1250 Eye Street, N.W.
Washington, D.C. 20005

Brian R. Moir
International Communications
Association
Moir & Hardman
2000 L Street, N.W., Suite 512
Washington, D.C. 20036-4907

Mel Engel, Bruce D. Jacobs,
Jason S. Roberts
Wavephore, Inc.
Fisher Wayland Cooper Leader &
Zaragoza L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006

Ronald L. Plessner, James J. Halpert
Mark J. O'Connor
Commercial Internet Exchange Assoc.
Piper & Marbury L.L.P.
1200 19th Street, N.W., Seventh Floor
Washington, D.C. 20036